



4410-15

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under The Clean Air Act

On December 3, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Pennsylvania in the lawsuit entitled *United States, et al. v. Lehigh Cement Company LLC and Lehigh White Cement Company, LLC*, Civil Action No. 5:19-cv-05688.

In a Complaint that was filed simultaneously with the Consent Decree, the United States and seven states and state or local agencies seek injunctive relief against Lehigh Cement Company LLC (“Lehigh”) and Lehigh White Cement Company, LLC (“Lehigh White”) and penalties against Lehigh, pursuant to Sections 113(b) and 167 of the Clean Air Act (“the Act”), 42 U.S.C. §§ 7413(b) and 7477, for alleged violations of the Prevention of Significant Deterioration provisions of the Act, 42 U.S.C. §§ 7470-7492; the nonattainment New Source Review provisions of the Act, 42 U.S.C. §§ 7501-7515; the federally-approved and enforceable state implementation plans, which incorporate and/or implement the above listed requirements; and corresponding state laws. The Complaint alleges claims at one or more of eleven Portland cement facilities located in eight states owned or operated by Lehigh or Lehigh White. The states and state or local agencies that have joined the Complaint and are signatories to the Consent Decree consist of Indiana, Iowa, Maryland, New York, the Pennsylvania Department of Environmental Protection, the Jefferson County Board of Health (Alabama), and the Bay Area Air Quality Management District (California).

The Consent Decree would require installation of emissions control technology for nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>), emissions monitoring systems, and specified

NO<sub>x</sub> and SO<sub>2</sub> emission limits (except that the emission limit for SO<sub>2</sub> at the Cupertino, CA facility would be established through a testing program). The Decree would also require Lehigh to pay a civil penalty of \$1.3 million, and perform a mitigation project involving upgrading two off-road vehicle engines at an estimated cost of \$650,000, which is expected to reduce smog-forming NO<sub>x</sub> by approximately 25 tons per year.

Notice of the lodging of the proposed Consent Decree was originally published in the Federal Register on December 11, 2019. *See* 84 FR 67758 (Dec. 11, 2019). The publication of the original notice opened a 30-day period for public comment on the proposed Consent Decree that was scheduled to end on January 10, 2020. The publication of the current notice extends the period for public comment on the Consent Decree to February 10, 2020.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et al. v. Lehigh Cement Company LLC and Lehigh White Cement Company, LLC*, D.J. Ref. No. 90-5-2-1-08531/1. All comments must be submitted no later February 10, 2020. Comments may be submitted either by e-mail or by mail:

| <i>To submit comments:</i> | <i>Send them to:</i>  |
|----------------------------|---|
| By e-mail                  | pubcomment-ees.enrd@usdoj.gov   |
| By mail                    | Assistant Attorney General<br>U.S. DOJ – ENRD<br>P.O. Box 7611<br>Washington, D.C. 20044-7611 |

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <http://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611

Please enclose a check or money order for \$26.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,  
Acting Assistant Section Chief,  
Environmental Enforcement Section,  
Environment and Natural Resources Division.

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